

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

FILED

2009 DEC -7 P 1:32

U.S. DISTRICT COURT
EASTERN DIST. TENN.

BY _____ DEPT. CLERK

GEORGE ANTHONY SEXTON,
AND WIFE MARY P. SEXTON,

Plaintiffs,

vs.

Case No.: 3:09-cv-535
Jury Demanded Varian/Shirley

d/b/a STATE FARM FIRE
AND CASUALTY COMPANY

Defendant.

Removed from the Circuit Court of
Scott County, Tennessee
Case No.: 2009-CV-7801

DEFENDANT STATE FARM FIRE AND CASUALTY COMPANY'S
NOTICE OF REMOVAL

Defendant State Farm Fire and Casualty Company ("State Farm") hereby files this Notice of Removal of this action from the Circuit Court for Scott County, Tennessee, to this Court pursuant to 28 U.S.C. §§1332, 1441 and 1446. In support of this Notice of Removal, defendant State Farm would show the Court the following:

1. Plaintiffs George Anthony Sexton and wife, Mary P. Sexton, filed a Complaint against State Farm in the Circuit Court for Scott County, Tennessee, at Huntsville on October 23, 2009 (Case No. 2009-CV-7801). The Summons and Complaint were served on defendant State Farm on November 6, 2009.
2. True and correct copies of all process, pleadings and orders issued to defendant State Farm in the removed action are attached hereto as Exhibit "A."
3. Plaintiffs are citizens of the State of Tennessee.

4. Defendant State Farm is a mutual insurance company organized under the laws of the State of Illinois with its principal place of business in Bloomington, Illinois.

5. As recited in the ad damnum of the Complaint, plaintiffs seek compensatory damages in the amount of their policy limits which exceed \$75,000.00.

6. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. §1332, as complete diversity of citizenship exists between the parties and the amount in controversy exceeds \$75,000.00 exclusive of interest and costs.

7. The time for filing this petition for removal under the provisions of 28 U.S.C. §§1332, 1441 and 1446 has not expired as this Notice of Removal has been filed with the Court within thirty (30) days of service of the state court action upon State Farm.

8. A written notice of the filing of this Notice of Removal has been served on counsel for the plaintiffs as required by 28 U.S.C. §1446(d).

9. A true and exact copy of both this Notice of Removal and Notice to State of Removal of Claims to the United States District Court have been mailed to the Morgan County Circuit Court Clerk's Office for filing in accordance with the provisions of 28 U.S.C. §1446(d). A true and exact copy of the Notice to State of Removal of Claims to the United States District Court is attached hereto as Exhibit "B."

10. In filing this Notice of Removal, defendant State Farm specifically preserves all available affirmative defenses, including the defenses available to it pursuant to Rule 12(b) of the Federal Rules of Civil Procedure.

WHEREFORE, defendant State Farm respectfully requests removal of this action from the Circuit Court of Scott County, Tennessee at Huntsville to the United States District Court, Eastern

District of Tennessee at Knoxville.

Respectfully submitted,

**BAKER, O'KANE,
ATKINS & THOMPSON**

Brent Morris

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Counsel for Defendant

State Farm Fire and Casualty Company

CERTIFICATE OF SERVICE

I, Brent A. Morris, hereby certify that a true and exact copy of the foregoing document has been served via U.S. Mail on December 7, 2009:

**Howard R. Ellis, Esq.
18539 Alberta Street
P.O. Box 4468
Oneida, TN 37841**

**Donnie Phillips, Jr., Circuit Court Clerk
Scott County Courthouse
283 Court Street
Huntsville, TN 37756**

Brent Morris

BRENT A. MORRIS